

1 DAVID R. EBERHART (S.B. #195474)
deberhart@omm.com
2 LUANN L. SIMMONS (S.B. #203526)
lsimmons@omm.com
3 HANNAH Y. CHANOINE (*pro hac vice*)
hchanoine@omm.com
4 SINA ARIA (S.B. #287529)
saria@omm.com
5 O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
6 San Francisco, California 94111-3823
Telephone: +1 415 984 8700
7 Facsimile: +1 415 984 8701
8 Attorneys for Defendant
APPLE INC.
9

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**
13

14 ZOMM, INC.,	Case No. 4:18-cv-04969-HSG
15 v.	STIPULATED REQUEST AND ORDER REGARDING REMOVAL OF INCORRECTLY FILED DOCUMENT (as modified)
16 Plaintiff,	
17 APPLE INC.,	Judge: Haywood S. Gilliam, Jr.
18 Defendant.	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

1 The parties respectfully request that the Court order that the version of the Stipulated
2 Request and Proposed Order to Dismiss Plaintiff's Non-Patent Cause of Action filed docket
3 entry 91 be removed from the docket, because it was incorrectly filed through a clerical error
4 and does not reflect the agreement of the parties. The document subsequently filed by Apple at
5 docket entry 92 is the correct stipulation and reflects the agreement of the parties.

6 Accordingly, the parties requests that docket entry 91 be permanently deleted from the
7 docket.

8 IT IS SO STIPULATED.

9 || Dated: September 24, 2019

KELLEY DRYE AND WARREN LLP

11 By: /s/ Michael J. Zinna
12 Michael J. Zinna
13 Attorneys for Plaintiff
14 ZOMM, INC.

14 Dated: September 24, 2019 O'MELVENY & MYERS LLP

16 By: /s/ David R. Eberhart
17 David R. Eberhart
18 Attorneys for Defendant
19 APPLE INC.

FILER'S ATTESTATION

21 Pursuant to Local Rule 5-1(i)(3), I hereby attest that the other signatory listed, on whose
22 behalf the filing is submitted, concurs in the filing's content and has authorized the filing.

/s/ David R. Eberhart

David R. Eberhart

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Clerk is directed to remove docket no. 91 from the docket.

Dated: September 25, 2019


Haywood S. Gilliam, Jr.
United States District Court Judge